

Message Text

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67

ORIGIN NEA-10

INFO OCT-01 ISO-00 L-03 AID-05 CIAE-00 COME-00 EB-07

FRB-03 INR-07 NSAE-00 USIA-06 TRSE-00 XMB-02 OPIC-03

SP-02 CIEP-01 LAB-04 SIL-01 OMB-01 STR-04 SSO-00

INRE-00 SS-15 NSC-05 NSCE-00 /080 R

DRAFTED BY NEA/ARP:FMDICKMAN:CEJ

APPROVED BY NEA:SSOBER

COMMERCE:AGC/DIB - MR. KNOWLES

TREASURY - MR. MCFADDEN (INFO)

L/NEA - MR. HUFFMAN

NEA/RA - MR. MORRISON (INFO)

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O 100050Z FEB 76

FM SECSTATE WASHDC

TO AMEMBASSY JIDDA IMMEDIATE

AMCONSUL DHAHRAN IMMEDIATE

C O N F I D E N T I A L STATE 032092

E.O. 11652:GDS

TAGS: ETRD, BEXP, SA, US

SUBJECT: SAUDI ARABIAN REQUIREMENT RE STAR OF DAVID
CERTIFICATES

REF: JIDDA 0836

1. IN ORDER TO CLARIFY USG POSITION ON STAR OF DAVID
CERTIFICATION AND PERMIT PROCESSING OF NUMEROUS PENDING
LETTERS OF CREDIT, DEPT OF COMMERCE HAS DECIDED TO PROVIDE
INTERPRETATION OF PART 369 OF EXPORT ADMINISTRATION REGULA-
TIONS WHICH IS TO BE ISSUED AS A SUPPLEMENT TO THESE
REGULATIONS IN NEXT FEW DAYS. FOLLOWING IS TEXT.

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2. QTE: EXPORT ADMINISTRATION BULLETIN NO. 149 OF

NOVEMBER 23, 1975, MADE SIGNIFICANT CHANGES IN THE EXPORT ADMINISTRATION REGULATIONS RELATING TO RESTRICTIVE TRADE PRACTICES AND BOYCOTTS. TO CLARIFY WHAT HAS SINCE BECOME AN AREA OF UNCERTAINTY AND DIFFERING UNDERSTANDINGS IN THE EXPORT COMMUNITY, THE FOLLOWING SUPPLEMENT NO. 1 IS ADDED TO PART 369 (15 C.F.R. PART 369):

SUPPLEMENT 1 - INTERPRETATION OF PART 369

IT HAS COME TO THE ATTENTION OF THE DEPARTMENT THAT EX-

PORTERS TO CERTAIN DESTINATIONS IN THE MIDDLE EAST ARE BEING REQUESTED BY ENTITIES IN THE IMPORTING COUNTRY TO CERTIFY IN THE COMMERCIAL DOCUMENTATION RELATING TO THE PARTICULAR TRANSACTION THAT CERTAIN SYMBOLS NOT APPEAR ON THE GOODS TO BE SHIPPED OR ON THE PACKAGING.

IT HAS ALSO BECOME EVIDENT THAT THERE IS CONSIDERABLE UNCERTAINTY IN THE EXPORT COMMUNITY AS TO WHETHER BOYCOTT-RELATED REQUESTS FOR THIS TYPE OF CERTIFICATION FALL WITHIN THE PROVISIONS OF S369.2 OR S369.3 OF THE EXPORT ADMINISTRATION REGULATIONS. WIDELY VARYING INTERPRETATIONS HAVE BEEN GIVEN TO CERTAIN TERMS BY EXPORTERS AND RELATED SERVICE ORGANIZATIONS. TO ALLEVIATE UNNECESSARY HARDSHIP AND UNCERTAINTY, IT IS NECESSARY TO CLARIFY THIS MATTER FOR PURPOSES OF PART 369.

A BOYCOTT-RELATED REQUEST THAT A PARTICULAR RELIGIOUS SYMBOL NOT APPEAR ON GOODS OR PACKAGES BEING EXPORTED WILL BE DEEMED TO HAVE THE EFFECT OF DISCRIMINATING AGAINST US CITIZENS OR FIRMS ON THE BASIS OF RELIGION. REFERENCES TO THE "STAR OF DAVID," "HEXAGONAL STAR," "SIX POINT STAR", ETC., WILL THUS BE DEEMED TO REFER TO A RELIGIOUS SYMBOL AND, THEREFORE, TO FALL WITHIN THE PROHIBITIONS OF S369.2. ON THE OTHER HAND, A BOYCOTT-RELATED REQUEST FOR CERTIFICATION WITH RESPECT TO THE NATIONAL ORIGIN OF GOODS BEING EXPORTED OR A PARTICULAR NATIONAL SYMBOL WILL, IN THE ABSENCE OF CONTRARY EVIDENCE, BE DEEMED TO BE AN ACTION IN SUPPORT OF A FOREIGN BOYCOTT WHICH FALLS WITHIN THE PROVISIONS OF S369.3.

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THE INTERPRETATIONS SET FORTH IN THIS SUPPLEMENT WILL BE ENFORCED PROSPECTIVELY. NO BANK SHOULD ISSUE, NOTIFY, ADVISE, CONFIRM (OR ENTER INTO SPECIFIC COMMITMENTS TO ISSUE, NOTIFY, ADVISE OR CONFIRM) TO THE BENEFICIARY THEREOF, ANY LETTER OF CREDIT CONTAINING A REQUEST FOR A "STAR OF DAVID" OR SIMILAR CERTIFICATION. HOWEVER, IF A BANK HAS ISSUED, NOTIFIED, ADVISED, CON-

FIRMED (OR ENTERED INTO SPECIFIC COMMITMENTS TO ISSUE, NOTIFY, ADVISE, OR CONFIRM) SUCH A LETTER OF CREDIT, SHIPMENTS BY AN EXPORTER AND PAYMENTS BY A BANK THEREUNDER WILL BE VIEWED AS COMPLETION OF A PENDING COMMERCIAL TRANSACTION AND NOT AS ACTIONS IN FURTHERANCE OF A BOYCOTT.

THIS SUPPLEMENT IS ISSUED SOLELY AS AN INTERPRETATION OF PART 369. THE DEPARTMENT CONTINUES TO URGE AND REQUEST EXPORTERS AND RELATED SERVICE ORGANIZATIONS NOT TO COMPLY WITH OR RESPOND TO ANY BOYCOTT-RELATED REQUEST. PUBLICATION OF THIS SUPPLEMENT WILL, FOR PURPOSES OF ENFORCEMENT OF PART 369, BE VIEWED AS ACTUAL NOTIFICATION TO THE

EXPORT COMMUNITY OF THE INTERPRETATIONS SET FORTH HEREIN.

3. SUPPLEMENT WILL NOT BE GIVEN PUBLICITY BUT WILL BE MAILED TO THOSE EXPORTERS WHO ARE AFFECTED BY CERTIFICATION RE STAR OF DAVID/SIX POINTED STAR REQUIREMENTS. IT WILL ALSO APPEAR IN FEDERAL REGISTER TO COVER ANY FIRMS WHICH COMMERCE DEPARTMENT NOT AWARE OF.

4. ON FEBRUARY 7, DEPT GAVE SAUDI AMBASSADOR ALIREZA BACKGROUND AND ADVANCE INDICATION OF DEPT OF COMMERCE DECISION AS WELL AS DRAFT OF PROPOSED SUPPLEMENT (WORDING SLIGHTLY DIFFERENT FROM FINAL TEXT).

5. DEPT IS FURNISHING FINAL TEXT TO SAUDI EMBASSY IN WASHINGTON. EMBASSY JIDDA SHOULD FURNISH COPIES TO APPROPRIATE SAG OFFICIALS MAKING FOLLOWING POINTS:

(A) WE WELCOME INDICATIONS (REPORTED IN REFTTEL) THAT SAG IS CANCELLING REGULATION FOR STAR OF DAVID/SIX
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POINTED STAR CERTIFICATES FOR LETTER OF CREDIT.

(B) EVEN THOUGH SAUDI ACTION TO CANCEL STAR OF DAVID CERTIFICATE WILL REMOVE PROBLEM, SUPPLEMENT IS BEING ISSUED BY DEPT OF COMMERCE BECAUSE: (1) LARGE NUMBER OF PENDING LETTERS OF CREDIT TOTALLING MANY HUNDREDS OF MILLIONS OF DOLLARS REQUIRE AFFIRMATIVE ACTION ON PART OF USG TO PERMIT THESE LETTERS OF CREDIT TO BE CLEARED; AND (2) TO OVERCOME LEGAL PROBLEMS WHICH COULD OTHERWISE ARISE FOR BANKS AND FIRMS WHICH HAD CERTIFIED IN GOOD FAITH LETTERS OF CREDIT WITH STAR OF DAVID/SIX POINTED STAR LANGUAGE WITHOUT REALIZING THAT THIS LANGUAGE WAS CONSIDERED AS A RELIGIOUS SYMBOL MAKING COMPLIANCE PROHIBITED UNDER SUBSECTION 369.2 OF EXPORT ADMINISTRATION REGULATIONS.

(C) APPLICATION OF COMMERCE DEPT INTERPRETATION WILL BE PROSPECTIVE AND NOT RETROSPECTIVE. SINCE DEPT OF COMMERCE SUPPLEMENT WILL BE COMING OUT AFTER MEASURES WHICH SAG HAS INITIATED TO REMOVE THIS CERTIFICATION REQUIREMENT, THERE SHOULD NOT BE ANY ENFORCEMENT PROBLEMS AND ISSUE CAN QUIETLY FADE AWAY. INGERSOLL

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To: JIDDA DHAHRAN
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